United Nations A/62/896–S/2008/436

General Assembly
Security Council

Distr.: General
7 July 2008

Original: English

General Assembly
Sixty-second session
Agenda item 74
Report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Security Council
Sixty-third year

Identical letters dated 13 June 2008 from the Secretary-General to the President of the General Assembly and the President of the Security Council

I attach for your attention a letter dated 6 June 2008 from Judge Dennis Byron, President of the International Criminal Tribunal for Rwanda (see annex). President Byron seeks authorization for an extension of the terms of office of nine permanent judges and eight ad litem judges, whose terms expire on 31 December 2008. He seeks for each of these judges an extension to 31 December 2009, or until the completion of the cases to which they are assigned if sooner. As a contingency against the unexpected, he also seeks an extension to 31 December 2009 of the terms of the remaining nine ad litem judges who are not yet appointed to serve at the Tribunal.

The statute of the International Tribunal does not provide for extending the terms of office of the permanent or ad litem judges. In the absence of such a provision, the approval of the Security Council, as the parent organ of the International Tribunal, and of the General Assembly, as the organ that elects its judges, would be needed.

I would be grateful if you could have the present letter and its annex circulated as a document of the General Assembly, under agenda item 74, and of the Security Council.

(*Signed*) **Ban** Ki-moon

08-41278 (E) 110708

Annex

Letter dated 6 June 2008 from the President of the International Criminal Tribunal for Rwanda to the Secretary-General

I respectfully request that you transmit the present letter to the Presidents of the Security Council and the General Assembly for their consideration and necessary action. The purpose of this letter is to request an extension of the terms of office of some judges to allow the completion of trial work at the earliest date possible.

Rationale

In accordance with Security Council resolutions 1684 (2006) of 13 June 2006 and 1717 (2006) of 13 October 2006, the terms of office of the 11 permanent judges currently serving at the Tribunal and of the 18 ad litem judges who had been elected on 25 June 2003, will expire on 31 December 2008.

Since 2003, when the Security Council called upon the Tribunal to take all possible measures to complete all trial activities at first instance by the end of 2008 (resolution 1503 (2003)), the Tribunal has substantially discharged its mandate and complied with its completion strategy, while upholding trial fairness and the rights of the accused.

As a result, the evidence phase of all the trials of which the Tribunal had been seized in 2003, with the exception of the *Karemera et al.* trial and the four cases earmarked for transfer to a domestic jurisdiction under rule 11 bis, will be completed by the end of 2008, although there will be some spillover of the judgement-writing phase of some of them.

However, there have been new developments beyond the Tribunal's control since resolution 1503 (2003). Two accused were arrested at the end of 2007 and one early in 2008. As stated in each completion strategy report since 2004, such events have an impact on the date by which trials can be completed. Because the three newly arrested are considered high-level accused, their trials should take place at the Tribunal. Due to the occupancy rate of courtrooms and Trial Chambers' availability, those three new cases are projected to commence in the second half of 2008. However, the scheduling of these trials cannot avoid a spillover of the evidence phase into 2009, with judgement delivery in the second half of 2009.

The attached judicial calendar and two grids related to the necessary judicial assignments demonstrate that seven permanent and eight ad litem judges can progressively complete all the remaining cases, including the three new ones, by 20 November 2009. However, it is advisable to make provision until the end of 2009 in case of unforeseen circumstances, with the understanding that the judges will leave as soon as they complete their cases. Naturally, the two permanent judges assigned to the Appeals Chamber will be fully engaged at the appellate level during 2009 and 2010.

Two permanent judges and one ad litem judge will complete their assigned cases and resign by November 2008. No arrangements for their replacement are considered necessary due to the current and anticipated workload.

Requested action

Under articles 12 bis and ter of the Tribunal's statute, the judges are elected for a term of four years. It will be recalled that in 2006, the Security Council decided to extend the terms of office of the permanent judges currently serving at the Tribunal and of the ad litem judges who had been elected on 25 June 2003, until 31 December 2008 in order to allow the completion of the trial work (resolutions 1684 (2006) and 1717 (2006)). The reasons which motivated that extension remain applicable and justify the extension now requested.

Where appropriate, special permission for the ad litem judges to serve in the Tribunal beyond the cumulative period of three years' service provided for under article 12 ter (2) of the Tribunal's statute would need to be granted accordingly.

It is further requested that, as a contingency against the unexpected, the terms of the remaining ad litem judges who were elected by the General Assembly in 2003, but not yet appointed to serve at the Tribunal, be extended to 31 December 2009.

Financial implications

While the approved biennium budget 2008-2009 contains financial provision for nine judges (5 permanent and 4 ad litem), including the two permanent judges appointed to the Appeals Chamber, the financial implications of the extension of the terms of office of eight additional judges (4 permanent and 4 ad litem) until end of 2009 (with the understanding that they would leave as soon as their cases are completed) will result in additional resource requirements for these judges of approximately $1.5 million for 2009.

The financial implications related to the judicial support for the three additional single-accused cases (such as courtroom management, defence management and witness management) will be addressed in the context of revised estimates that will be considered by the Advisory Committee on Administrative and Budgetary Questions and the Fifth Committee, at the appropriate state.

(*Signed*) Dennis **Byron**
President